

NIGH GOLDBERG RASO & VAUGHN PLLC

Marlene Goldenberg (*Pro hac vice*)

14 Ridge Square NW

Third Floor

Washington DC 20016

Phone: (202)-792-7927

Facsimile: (202)-792-7927

Email: mgoldenberg@nighgoldenberg.com

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION**

No. 3:23-md-03084-CRB

**REPLY IN SUPPORT OF MOTION TO
WITHDRAW AS COUNSEL FOR
PLAINTIFF K.N.**

This Document Relates to:

K.N. v. Uber Technologies, Inc., et al.
Case No. 3:25-cv-04184

Judge: Honorable Charles R. Breyer

Date: TBD

Time: TBD

Courtroom:

REPLY IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL

Nigh Goldenberg Raso & Vaughn PLLC (NGRV) hereby moves to withdraw from representation of Plaintiff K.N., who became unreachable to the instability of homelessness. Lacking any basis on which to challenge NGRV's Motion, Uber instead stooped to inaccurately smearing NGRV and Plaintiff K.N. with allegations about *other* law firms and *other* plaintiffs. See ECF 4814 at 2. Whatever issues Uber may claim to have with other "Plaintiffs' counsel" are immaterial to this Motion, this firm, and this Plaintiff.

The facts of *this case* support withdrawal. Plaintiff K.N., who is unhoused, appears to lack any permanent phone number or address. While she initially maintained contact with NGRV, she subsequently lost contact with her lawyers at NGRV and, despite performing background checks, conducting numerous outreach attempts, and engaging a private investigator, NGRV has not been able to locate Plaintiff K.N. Indeed, NGRV's private investigator learned that even Plaintiff K.N.'s next of kin (who NGRV's investigator was able to locate) are unaware of her current whereabouts. As a result, it is not only unreasonably difficult but impossible for NGRV to continue its representation of Plaintiff K.N. To avoid prejudice, undue delay, or inappropriate impacts on the administration of justice, NGRV filed this Motion only after first exhausting all efforts to locate Plaintiff K.N. and after confirming that there are no other outstanding motions related to Plaintiff K.N.

ARGUMENT

The Court should authorize NGRV to withdraw from its representation of Plaintiff K.N. pursuant to Cal. Rules Prof. Conduct 1.16(d)(1). This Motion follows extensive and costly efforts by NGRV to reestablish contact with Plaintiff K.N., who was sexually assaulted in an Uber ride arranged by a homeless shelter and lacks a permanent address or consistent contact information. NGRV has no reason to believe that Plaintiff K.N. purposely disengaged; instead, NGRV believes that Plaintiff K.N. is uncontactable because she is experiencing homelessness. A majority of those experiencing

homelessness experience “considerable” turnover in phone numbers and cell phones during even a brief three-month period.¹ These individuals are still entitled to retain counsel and file lawsuits, though it can present difficulties if clients do not remember to update their attorneys when their contact information changes. Here, after conducting background checks, contacting Plaintiff K.N. repeatedly using her last known contact information, and utilizing a private investigator, NGRV was not able to locate any trace of Plaintiff K.N. ECF 4776-1, Goldenberg Decl. ¶ 4. Even Plaintiff K.N.’s next of kin notified the private investigator that they did not know her current whereabouts. Continued representation of Plaintiff K.N. is not just difficult, it is impossible because NGRV has no way to meet upcoming deadlines or gather outstanding discovery. *Id.* Throughout this process, NGRV preserved Plaintiff K.N.’s rights by serving required documents including a Plaintiff Fact Sheet using information previously confirmed by Plaintiff K.N.; however, NGRV was not able to provide a complete PFS because Plaintiff K.N. did not confirm all answers and NGRV was not able to provide a verified (i.e., signed) PFS because Plaintiff K.N. could not be located to obtain a signature for her certification form.

Reason for Withdrawal. NGRV moved to withdraw because it is “unreasonably difficult” to do so effectively. Cal. Code Prof. Cond. R. 700(C)(1)(d). Uber faults NGRV for not submitting a completed PFS including a signed certification from Plaintiff K.N. and for continuing to represent her. *See* ECF 4818 at 2–3. This is precisely the issue: NGRV cannot meet the Court’s deadlines because Plaintiff K.N. is unreachable despite NGRV’s best efforts to locate her. Uber suggests that the inability to communicate with a client is not sufficient grounds for withdrawal, but there is “good cause to withdraw where [a] client stopped communicating with [her] counsel on any matters regarding the case.” *Rosales v. Garrison Prop. & Cas. Ins. Co.*, 2023 WL 429817, at *2 (C.D. Cal.

¹ Harmony Rhodes, et al., *No Digital Divide? Technology Use Among Homeless Adults*, 22 J. SOC. DISTRESS. HOMELESS 73, 75 (2017).

1 April 19, 2023).

2 **Prejudice.** Plaintiff K.N. will not be prejudiced. Though Uber asserts “she is facing case-
3 terminating sanctions,” ECF 4818 at 3, this is simply false. NGRV confirmed before filing its Motion
4 that no motions of any kind related to Plaintiff K.N. had been filed. ECF 4776-1, Goldenberg Decl.
5 ¶ 7. Plaintiff K.N. is not prejudiced by any hypothetical future motion. While Uber claims that
6 Plaintiff K.N. will be prejudiced if this Motion is granted, NGRV’s extensive efforts to locate Plaintiff
7 K.N. weigh against this conclusion. *See Correia v. The Nat’l R.R. Passenger Corp.*, 2015 WL
8 4606064, at *2 (N.D. Cal. July 31, 2015) (finding that plaintiff’s counsel took reasonable steps to
9 avoid prejudice where they performed background checks and utilized a private investigator). Here,
10 NGRV performed background checks, made numerous attempts to contact Plaintiff K.N. using the
11 contact information furnished by background checks, and engaged a private investigator to search for
12 Plaintiff K.N. ECF 4776-1, Goldenberg Decl. ¶ 4. NGRV’s private investigator was able to locate
13 Plaintiff K.N.’s next of kin, but even they were unaware of her current whereabouts. *Id.* Uber also
14 claims that *it* will be prejudiced because, if NGRV withdraws, NGRV will not provide the information
15 about Plaintiff K.N. it “owes” Uber. ECF 4818 at 4. However, NGRV is not willfully withholding
16 information. Its client is missing, and NGRV’s continued participation will not yield the information
17 Uber demands.
18

19
20 To the extent Uber claims it will somehow be prejudiced going forward if NGRV is permitted
21 to withdraw because NGRV committed “fraud” by submitting an “incomplete and unverified” PFS,
22 this argument is meritless. First, as NGRV previously explained, the PFS is “unverified” in the sense
23 that Plaintiff K.N. did not execute the verification page, not that NGRV failed to verify the accuracy
24 of information entered into MDL Centrality’s PFS portal with its client. The representation that the
25 “statements set forth [in the PFS] are true and correct to the best of [the plaintiff’s] knowledge” is
26 contained in the verification page of the PFS, *see* ECF 348-1 at 16 (adopted PFS). Absent a signed
27 verification, there is no representation that the plaintiff made the statements set forth in the PFS him
28

1 or herself. Indeed, the parties did not truly contemplate such a process given that the PFS responses
 2 are entered on MDL Centrality, a portal used only by attorneys and their staff, and then *verified* by
 3 the plaintiff as true and correct. *See id.* Here, this verification step was never completed and NGRV
 4 never represented the PFS as having been filled out or verified by Plaintiff K.N. This is not fraud. At
 5 most, this situation demonstrates that the Parties were not aligned as to PFS process.

7 Second, even if Uber was somehow convinced that NGRV was trying to pass off a PFS
 8 without a verification page as one completed and reviewed by the client, this does not amount to
 9 prejudice that *will* occur if NGRV is permitted to withdraw. Uber fails to identify how its
 10 unsubstantiated and false allegations of *past* fraud will prejudice it if NGRV's motion to withdraw is
 11 granted. There is simply no connection between the two. Instead, NGRV did what its ethical
 12 obligations required in the face of an unreachable client: preserve all deadlines by producing the
 13 discovery responses the client had already provided.² *See* Cal. R. Prof. Cond. 1.2.1.

15 ***Administration of Justice.*** Uber argues that denial of the Motion is required because (it says)
 16 NGRV did not address the administration of justice factor. Uber is wrong on both counts. While Uber
 17 relies on *In re Cellular 101, Inc.* for this proposition, that case says no such thing. In *In re Cellular*
 18 concerns a defendant's failure to timely raise an affirmative defense, not the issue of whether a party's
 19 factor to address one of several non-dispositive factors on a withdrawal motion precludes withdrawal.
 20 539 F.3d 1150, 1157 (9th Cir. 2008); *see Rosales*, 2023 WL 429817 (explaining that administration
 21 of justice and delay factors are "not dispositive"). In any event, contrary to Uber's assertion, NGRV
 22 did address "administration of justice." *See* Mem. at 4 ("Permitting NGRV to withdraw will not ...
 23 harm the administration of justice."); *see also* Mem. at 5. As NGRV explained, while the Court denied
 24 motions to withdraw filed by other firms on administration of justice grounds where there were pending
 25

28 ² In doing so, NGRV did not provide a verification of the responses because it could not do so without Plaintiff K.N.'s participation.

1 motions involving the subject plaintiffs, NGRV confirmed at the time of filing that no such motions
 2 existed. ECF 4776-1, Goldenberg Decl. ¶ 7.

3 Uber also demands that NGRV be forced to turn over attorney-client privileged information
 4 about NGRV's "communications with Plaintiff K.N. and what it did to investigate her claims." ECF
 5 4818 at 4.³ However, Uber's specious allegations based on the conduct of *other law firms* is not
 6 sufficient to override attorney-client privilege and mandate NGRV to turn over its communications
 7 with Plaintiff K.N. NGRV does not seek to withdraw from Plaintiff K.N.'s case because of any
 8 information learned in the case-vetting process, but because NGRV cannot reach her despite running
 9 background checks and engaging a private investigator. ECF 4776-1, Goldenberg Decl. ¶ 4.

11 ***Delay.*** Uber asserts that NGRV's withdrawal will "likely delay" these proceedings, though it
 12 fails to address *how* this will happen. ECF 4818 at 3. Indeed, as NGRV explained, there will be no
 13 delay: at the time of filing, there were no pending motions related to Plaintiff K.N. and no MDL
 14 deadlines relate to Plaintiff K.N. To the extent the deadline to complete the PFS has passed, NGRV
 15 cannot facilitate these deadlines even if it remains counsel of record because it simply has no way of
 16 contacting Plaintiff K.N. (thus, this Motion).

18 CONCLUSION

19 NGRV respectfully requests that the Court enter an order terminating its representation of
 20 Plaintiff and allowing Plaintiff 30 days to retain new counsel.

21 Dated: January 5, 2026

22 Respectfully submitted,

23 /s/ Marlene Goldenberg
 24 Marlene Goldenberg (Pro Hac Vice)
 Sam Hoefs (Pro Hac Vice)

25
 26 ³ Uber here relies on *Floyd v. Amazon.com, Inc.*, 2024 WL 5040453 (W.D. Wash. Nov. 5, 2024).
 27 However, *Floyd* does not concern an unreachable client, but a client whose relationship with counsel
 28 became "broken" down, for unspecified reasons. *Id.* at *1. In addition, unlike *Floyd*, NGRV provided
 extensive information about its efforts to reach out to Plaintiff K.N. numerous times at her last-known
 contact information, to perform background checks, and to send a private investigator to locate K.N.
 ECF 4776-1, Goldenberg Decl. ¶ 4. The circumstances that warrant withdrawal here are, unlike *Floyd*,
 well-documented in the record.

**NIGH GOLDBERG RASO & VAUGHN
PLLC**

14 Ridge Square NW, Third Floor
Washington, DC 20016

Tel.: (202) 978-2228

Fax: (202) 792-7927

Mgoldenberg@nighgoldenberg.com

CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2025, I electronically filed the foregoing using the CM/ECF system which will serve notification of such filing to all counsel of record and certify that a copy of this document was sent by mail to Plaintiff.

Furthermore, on December 21, I electronically filed the foregoing in Plaintiff's individual docket using the CM/ECF system which will serve notification of such filing to all counsel of record and certify that a copy of this document was sent by mail to Plaintiff.

/s/ Marlene Goldenberg
Marlene Goldenberg